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MARY L.M. MORAN CLERK OF COURT

FILED DISTRICT COURT OF GUAM

Attorneys for the United States of America

IN THE UNITED STATES DISTRICT COURT FOR THE TERRITORY OF GUAM

UNITED STATES OF AMERICA,

Plaintiff,

Vs.

BRIAN WILLIAM ELM,

Defendant.

Plaintiff,

CRIMINAL CASE NO.

INDICTMENT

FALSE DECLARATION
BEFORE THE COURT

[18 U.S.C. § 1623]
(Counts 1 through 3)

THE GRAND JURY CHARGES:

COUNT I - FALSE DECLARATION BEFORE THE COURT

- 1. On or about May 15, 2006, in the District of Guam, BRIAN WILLIAM ELM, while under oath as a witness in a case then being tried before the United States District Court for the said District, to-wit: <u>United States v. Brian William Elm</u>, Cr. No. 05-00053, did knowingly make a false material declaration, to-wit:
- 2. At the time and place aforesaid, the Court and Jury were engaged in the trial of the aforementioned case wherein BRIAN WILLIAM ELM, the defendant therein, was charged in Count I of the Third Superseding Indictment with Conspiracy to Distribute Methamphetamine Hydrochloride. It was a matter material to said trial to determine whether BRIAN WILLIAM ELM had conspired with others to distribute methamphetamine as alleged in Count 1.

- 3. At the time and place alleged, BRIAN WILLIAM ELM, while under oath, did knowingly declare before said Court and Jury with respect to the aforesaid material matter, as follows:
 - Q. Have you ever received packages in the mail from Jonathan Canovas that contained controlled substances in them?
 - A. No.
- 4. The aforesaid underscored testimony of BRIAN WILLIAM ELM, as he then and there well knew and believed, was false in that, between the dates alleged in Count I of the Third Superseding Indictment, he did receive controlled substances in the mail from Jonathan Canovas.

ALL IN VIOLATION of Title 18, United State Code, § 1623.

COUNT II - FALSE DECLARATION BEFORE THE COURT

- 5. The grand jury realleges and incorporates herein Paragraphs 1 and 2.
- 6. At the time and place alleged, BRIAN WILLIAM ELM, while under oath, did knowingly declare before said Court and Jury with respect to the aforesaid material matter, as follows:
 - Q. Now, you are charged in this case; why haven't you pleaded guilty?
 - A. Because I'm not involved.
 - Q. What do you mean by you're not involved?
 - A. I just I didn't have anything to do with this.
- 7. The aforesaid underscored testimony of BRIAN WILLIAM ELM, as he then and there well knew and believed, was false in that, between the dates alleged in Count I of the Third Superseding Indictment, he did conspire with others to distribute controlled substances.

 ALL IN VIOLATION of Title 18, United State Code, § 1623.

COUNT III - FALSE DECLARATION BEFORE THE COURT

8. The Grand Jury realleges and incorporates herein Paragraphs 1 and 2.

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- 9. At the time and place alleged, BRIAN WILLIAM ELM, while under oath, did knowingly declare before said Court and Jury with respect to the aforesaid material matter, as follows:
 - Q. Now Mr. Aponik has said that shortly before you went to jail that you introduced him to Mr. Cruz and put them together so that they could continue this drug operation; is that true?

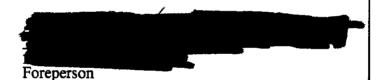
A. That's not true.

10. The aforesaid underscored testimony of BRIAN WILLIAM ELM, as he then and there well knew and believed, was false in that, between the dates alleged in Count I of the Third Superseding Indictment, he did introduce John Cruz to Eric Aponik so that the conspiracy to distribute controlled substances as alleged in Count I could continue.

ALL IN VIOLATION of Title 18, United State Code, § 1623.

Dated this 28th day of March, 2007.

A TRUE BILL.



LEONARDO M. RAPADAS United States Attorney Districts of Guam and CNMI

KARON V. OHNSON Assistant U.S. Attorney

JEFFREY J. STRAND First Assistant U.S. Attorney

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